

138967

JAMES W. HARRIS
ATTORNEY AT LAW

DEPT. OF TRANSPORTATION

01 SEP 18 PM 4:05

September 4, 2001

Via U.S. Express Mail And Facsimile To (202) 366-1024

NHTSA
Office of Vehicle Safety Compliance
400 Seventh St., SW
Washington DC 20590

Attention: Ms. Marilyn Jacobs
Mr. George Entwistle
Mr. Luke Joy

-25 -24
Re: Docket #NHTSA 2001-9628 and NHTSA 2001-9630

Dear Gentlepersons:

I am retained legal counsel for several individuals as well as several California licensed automobile dealers, each of whom have a vested interest in lawfully importing the model year 2001 Ferrari 360 and/or the 2001 Ferrari 550, and which vehicles were not specifically manufactured for U.S. distribution through the manufacturer's authorized distributor, Ferrari of North America.

It is my understanding, and that of my clients, that on or about May 14, 2001, JK Technologies filed a petition with your agency seeking compliance for the model year 2001 360 and 550. We understand that the petition close date was June 20, 2001, and that the petition closed with no comments. However, on June 27, 2001, (after the comment period had expired), Ferrari of North America requested to re-open the comment period until August 10, 2001. On that date, (August 10, 2001) Ferrari of North America submitted opposition to the importation and legalization of the 2001 Ferrari 360 and 550, and requested yet another extension for further comments through September 28, 2001.

3334 E. PACIFIC COAST HYWY. NO. 402
CORONA DEL MAR, CA 92625
(949) 723-4339(TEL)
(949)-723-0455(FAX)
jwhesqmaddog@msn.com

NHTSA

- 2 -

September 4, 2001

Office of Vehicle Safety Compliance

Re: Docket #NHTSA 2001-9628 and NHTSA 2001-9630

Presently it is my understanding that your agency has not yet granted Ferrari of North America's request for a further extension to comment through September 28, 2001. It is also my understanding that your agency has not made a decision to approve or deny the petition of JK Technologies seeking compliance for the 2001 Ferrari 360 and 550.

It is worth pointing out that the manufacturer of the Ferrari automobile, Ferrari, Spa, has not filed any timely objection to the importation and DOT compliance approval of its model year 2001 360 or 550 automobiles. Furthermore, it is noteworthy that Ferrari of North America (the U.S. Distributor for the Ferrari manufactured automobile) did not file any objection to the importation and DOT compliance for the model year 2000 Ferrari automobiles.

Ferrari of North America's comments, as set forth in their counsel's letter of June 27, 2001, appears to fall short of establishing a basis for denying DOT compliance and approval for non U.S. production model year 2001 360 and 550. Ferrari of North America's letter appears merely to be an attempt to bastardize the non U.S. production vehicles without setting forth in detail why the non U.S. vehicles cannot be brought into compliance with U.S. standards.

It should be apparent that Ferrari of North America is unfairly attempting to prevent owners and purchasers of non U.S. production Ferrari automobiles from having their vehicles lawfully imported into the U.S. for compliance testing and certification.

The non U.S. production and the U.S. production model year 2001 360 and 550 are substantially similar, at least in so far as is required by U.S. compliance testing and approval standards and procedures. If Ferrari of North America contends otherwise, then Ferrari of North America should, at a minimum, be required to provide a specific and detailed engineering analysis, supported by all available technical data, as to each and every component part that it contends is not in compliance and which part(s) cannot be brought into U.S. compliance. To allow Ferrari of North America to object to the certification of non U.S. production vehicles without providing such detailed information would deny my clients, and literally hundreds of other U.S. consumers, the opportunity afforded them under the law to have their non U.S. production vehicles legalized for their use and enjoyment in the United States.

It appears that Ferrari of North America does not have a legitimate basis (supported by reliable technical data) to object to the importation of the vehicles now in question, but rather is merely attempting (unfairly) to protect its U.S. market position.

NHTSA

- 3 -

September 4, 2001

Office of Vehicle Safety Compliance

Re: Docket #NHTSA 2001-9628 and NHTSA 2001-9630

My clients and the undersigned urge your Department to give full consideration to the pending petition of JK Technologies and to implement whatever procedures and policies are necessary for the approval of that petition. Ferrari of North America has failed to meet its burden of proving that the non U.S. production model year 2001 Ferrari 360 and 550 are substantially dissimilar to the U.S. production model year 2001 Ferrari 360 and 550. Ferrari of North America has failed to establish how any dissimilarities between the non U.S. and U.S. production vehicles cannot be corrected by the compliance testing procedures already in place by your Department.

My client and I wish to extend our sincere appreciation for the attention and concern that we anticipate your department is giving to this matter.

Sincerely,

By, *James W. Harris**

James W. Harris

cc: clients

**Consider As Though Executed By Signatory*